

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

HAPAG-LLOYD AKTIENGESELLSCHAFT,

Plaintiff,

- against -

U.S. OIL TRADING L.L.C., O.W. BUNKER
GERMANY GMBH, and ING BANK N.V.,

Defendants.

No. 14 Civ. 9949 (VEC)

**AFFIDAVIT OF BRIAN P.
MALONEY IN SUPPORT OF ING
BANK'S MOTION FOR SUMMARY
JUDGMENT**

U.S. OIL TRADING LLC,

Plaintiff,

- against -

M/V VIENNA EXPRESS, her tackle, boilers,
apparel, furniture, engines, appurtenances, etc., *in*
rem, and M/V SOFIA EXPRESS, her tackle,
boilers, apparel, furniture, engines, appurtenances,
etc., *in rem*,

Defendants.

No. 15 Civ. 6718 (VEC)

HAPAG-LLOYD AG, as claimant to the
in rem defendant M/V VIENNA EXPRESS,

Third-Party Plaintiff,

- against -

O.W. BUNKER GERMANY GMBH, and ING
BANK N.V.,

Third-Party Defendants.

STATE OF NEW YORK)

: ss.

COUNTY OF NEW YORK)

Brian P. Maloney, being duly sworn, deposes and says:

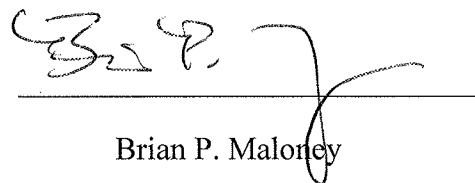
1. I am an attorney associated with Seward & Kissel LLP, counsel for ING Bank N.V. (“ING”), as Security Agent. I submit this affidavit in support of ING’s motion for summary judgment.

2. Annexed hereto are true and correct copies of the following documents:

Exhibit	Document	Bates Range
1	Time Charter Party for M/V SEASPAN HAMBURG	HPL-USOT 00201-00205
2	Time Charter Party for M/V SANTA ROBERTA	HPL-USOT 00242-00247
3	Transcript of 30(b)(6) Deposition of Hapag-Lloyd Aktiengesellschaft (“ <u>HLAG</u> ”) (Norbert Kock), dated January 19, 2016 (excerpts)	
4	Sales order confirmation issued by O.W. Bunker Germany GmbH (“ <u>O.W. Germany</u> ”) to HLAG for M/V SANTA ROBERTA	HPL-USOT 00074-00076
5	Sales order confirmation from O.W. Germany to HLAG for M/V SEASPAN HAMBURG	HPL-USOT 00068-00070
6	Sales order confirmation from O.W. Germany to HLAG for M/V SOFIA EXPRESS	ING HL49 0040-0042
7	Sales order confirmation from O.W. Germany to HLAG for M/V VIENNA EXPRESS	HPL-USOT 00071-00073
8	Sales order confirmation from O.W. Bunker USA, Inc. (“ <u>O.W. USA</u> ”) to O.W. Germany for M/V SANTA ROBERTA	ING HL49 0009-0011
9	Sales order confirmation from O.W. USA to O.W. Germany for M/V SEASPAN HAMBURG	ING HL49 0022-0025
10	Sales order confirmation from O.W. USA to O.W. Germany for M/V SOFIA EXPRESS	ING HL49 0045-0048
11	Sales order confirmation from O.W. USA to O.W. Germany for M/V VIENNA EXPRESS	ING HL49 0063-0066
12	Purchase order confirmation from O.W. USA to U.S. Oil Trading LLC (“ <u>USOT</u> ”) for M/V SANTA ROBERTA	USOT 000110-0011
13	Purchase order confirmation from O.W. USA to USOT for M/V SEASPAN HAMBURG	USOT 000165-00166
14	Purchase order confirmation from O.W. USA to USOT for M/V SOFIA EXPRESS	USOT 000055-000056

Exhibit	Document	Bates Range
15	Purchase order confirmation from O.W. USA to USOT for M/V VIENNA EXPRESS	USOT 000003-04
16	Invoice from O.W. Germany to HLAG for M/V SANTA ROBERTA	HPL-USOT 00080
17	Invoice from O.W. USA to O.W. Germany for M/V SANTA ROBERTA	ING HL49 0014
18	Invoice from USOT for M/V SANTA ROBERTA	USOT 000115
19	Invoice from O.W. Germany to HLAG for M/V SEASPAN HAMBURG	HPL-USOT 00077
20	Invoice from O.W. USA to O.W. Germany for M/V SEASPAN HAMBURG	ING HL49 0036
21	Invoice from USOT for M/V SEASPAN HAMBURG	USOT 000170
22	Invoice from O.W. Germany to HLAG for M/V SOFIA EXPRESS	HPL-USOT 00078
23	Invoice from O.W. USA to O.W. Germany for M/V SOFIA EXPRESS	ING HL49 0055
24	Invoice from USOT for M/V SOFIA EXPRESS	USOT 000060
25	Invoice from O.W. Germany to HLAG for M/V VIENNA EXPRESS	HPL-USOT 00079
26	Invoice from O.W. USA to O.W. Germany for M/V VIENNA EXPRESS	ING HL49 0075
27	Invoice from USOT for M/V VIENNA EXPRESS	USOT 000008
28	Transcript of 30(b)(6) Deposition of USOT (Thor Nielsen), dated January 7, 2016 (excerpts)	
29	Bunker delivery receipt for M/V SANTA ROBERTA	HPL-USOT 00170-00171
30	Bunker delivery receipt for M/V SEASPAN HAMBURG	HPL-USOT 00113-00114
31	Bunker delivery receipt for M/V SOFIA EXPRESS	HPL-USOT 00128-00129
32	Bunker delivery receipt for M/V VIENNA EXPRESS	HPL-USOT 00197-00198
33	HLAG payment voucher	HPL-USOT 00172-00173
34	Excerpt of USOT's credit file for O.W. Bunker & Trading A/S	USOT 000348

Exhibit	Document	Bates Range
35	Press release from PricewaterhouseCoopers announcing appointment of receivers and assignment to ING Bank of all rights, title and interest in its third party and intercompany receivables, both current and future (retrieved July 20, 2015)	ING 00329-00331
36	USD 700,000,000 Multicurrency Revolving Borrowing Base Facilities Agreement, dated December 19, 2013	ING 00079-00328
37	Transcript of 30(b)(6) Deposition of ING (Paul Copley), dated December 11, 2015 (excerpts)	
38	Transcript of Deposition of Inchcape Shipping Services, Inc. (Stacie Speckman), dated December 9, 2015 (excerpts), taken in <i>Nippon Kaisha Line Ltd. v. O.W. Bunker USA, Inc., et al.</i> , No. 14 Civ. 10091 (S.D.N.Y.)	
39	Transcript of Deposition of Wilhelmsen Ships Service (Neil Ligerwood), dated December 9, 2015 (excerpts), taken in <i>SK Shipping Co., Ltd. v. NuStar Energy Services, Inc., et al.</i> , No. 15 Civ. 2141 (S.D.N.Y.)	
40	English Omnibus Security Agreement, dated December 19, 2013	ING 00001-00078
41	Transcript of Oral Argument in <i>Valero Mktg. & Supply Co. v. M/V Almi Sun</i> , No. 14 Civ. 2712 (E.D. La.) (February 3, 2016)	
42	Transcript of 30(b)(6) Deposition of O.W. Germany (Stefan Musfeldt), dated March 17, 2016 (excerpts)	


 Brian P. Maloney

Sworn to before me
 May 13, 2016


 Notary Public

KATHARINE RODGERS
 Notary Public, State of New York
 No. 01RO6311663
 Qualified in Kings County
 Commission Expires Sept. 22, 2018